

**UNITED STATES DISTRICT COURT
DISTRICT OF NEW JERSEY**

ROBERT FREEMAN and JUDY FREEMAN,
WALTER HANSEL WINERY, INC.,
MEYER FRIEDMAN and BEVERLY
FRIEDMAN,

Plaintiffs,

v.

JERRY FISCHER, Director of the New Jersey
Division of Alcoholic Beverage Control,

Defendant,

and

R&R MARKETING, LLC, ALLIED
BEVERAGE GROUP, LLC and FEDWAY
ASSOCIATES, INC.,

Intervenor-Defendants.

Civ. Action No. 03-3140 (KSH)

ORDER

Katharine S. Hayden, U.S.D.J.

The Court having filed an opinion addressing plaintiffs' dormant commerce clause challenge to the New Jersey Alcoholic Beverage Control Act, N.J.S.A. 33:1-1, *et seq.*, and for the reasons set forth in that opinion,

IT IS on this 30th day of June, 2008,

ORDERED that the following portions of the New Jersey Alcoholic Beverage Control Act are declared unconstitutional:

1. N.J.S.A. § 33:1-10(2a): The holder of this license shall also have the right to sell such wine at retail in original packages in six salesrooms apart from the winery premises for consumption on or off the premises and for sampling purposes for consumption on the premises, at a fee of \$ 250 for each salesroom.

2. N.J.S.A. §§ 33:1-11(1): The fee for this license shall be \$ 8,750.

3. N.J.S.A. §§ 33:1-11(2a): The fee for this license shall be \$ 1,875.

4. N.J.S.A. §§ 33:1-11(2b): The fee for this license shall be \$ 3,750.

5. N.J.S.A. §§ 33:1-11(2b): The fee for this license shall be \$ 1,031.

It is further ORDERED that the state of New Jersey and its agencies are permanently enjoined from enforcing these provisions;

It is further ORDERED that the Clerk of the Court is directed to close this matter. Consistent with this Order, the plaintiffs' pending motion for summary judgment is denied in part and granted in part; and the defendants' summary judgment motions seeking a ruling that all provisions of the New Jersey Alcoholic Beverage Control Act are constitutional are denied.

Dated: 6/30/08

/s/Katharine S. Hayden

Katharine S. Hayden, U.S.D.J.